

REMARKS

Claims 1-25 remain pending in the application. Claim 18 has been cancelled without prejudice as Applicants may wish to pursue the subject matter of this claim in future prosecution. Reconsideration of the rejections set forth in the aforementioned Office Action is respectfully requested in view of the above amendments and following remarks. The basis for these amendments can be found throughout the specification, claims and drawings as originally filed.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 103

Claims 1, 7-11 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Leigner, U.S. Patent No. 5,092,474. Applicants respectfully traverse this rejection.

Claims 17-20 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claims 1 and 10 above, and further in view of Krishnakumar et al., U.S. Patent No. 5,303,834. Applicants respectfully traverse this rejection.

Claims 2, 4 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claims 1 and 17 above, and further in view of Ota et al., U.S. Patent No. 5,222,615. Applicants respectfully traverse this rejection.

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claim 2 above, and further in view of Yourist, U.S. Patent Application Publication No. 2003/0168425. Applicants respectfully traverse this rejection.

Claims 5, 6, 13 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claim 17 above, and further in view of Singier, U.S. Patent No. 3,325,031. Applicants respectfully traverse this rejection.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claim 10 above, and further in view of Scheffer et al., U.S. Patent No. 6,036,037. Applicants respectfully traverse this rejection.

Claims 15, 16, 24 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claims 10 and 17 above, and further in view of Sasaki et al., U.S. Patent Application Publication No. 2002/0020687. Applicants respectfully traverse this rejection.

The Examiner alleges that Leigner “teaches a molded plastic container with a pair of opposed flex panels and a pair of opposed columns at 12, 14. Note the columns are radially convex while the flex panels are concave as shown in Figure 7” and that “[t]o have optionally formed the flex panel as a floating island in the well-known manner of stepped vacuum panels would have been obvious in view of such teaching by Krishnakumar et al.” Applicants respectfully disagree with the Examiner’s characterization that Leigner, alone or in combination with Krishnakumar et al. or any of the other references cited, renders Applicants’ claimed disclosure obvious.

Applicants make the following observations regarding Leigner. The Leigner cited reference discloses a plastic jar having a “generally rectangular configuration”. See column 2, lines 8-9. Additionally, the plastic jar disclosed in Leigner has a distance from a central longitudinal axis of the jar to each sidewall which is generally constant throughout the entire sidewall portion, that is from the shoulder area to the base. The geometry found in Applicants’ claimed disclosure is significantly different. Applicants’ claimed disclosure teaches a plastic container having a geometry which is generally circular in traverse cross section. Moreover, Applicants’ container includes a distance measured from a central longitudinal axis of the container to the sidewall that is greater at a lower portion of the container as compared to such distance measured at an upper portion of the container. Specifically in this regard, independent Claims 1 and 10 recite a sidewall portion having diametrically opposed columns, “said columns being a first distance from said central longitudinal axis adjacent said lower portion and a second distance from said central longitudinal axis adjacent said upper portion, said first distance being greater than said second distance.” Similarly, independent Claim 17 recites “a pair of diametrically opposed columns, said columns being a first distance from said central longitudinal axis adjacent said lower portion and a second distance from said central longitudinal axis adjacent said shoulder portion, said first distance being greater than said second distance.” Leigner, alone or in combination with Krishnakumar et al. or any of the other references cited, does not disclose, teach or suggest any similar structure such as a sidewall having columns being a first distance from a central longitudinal axis adjacent a lower portion and a second distance from the central longitudinal axis adjacent an upper portion, the first distance being greater than

the second distance, as recited in independent Claims 1, 10 and 17 of Applicants' claimed disclosure. There is no motivation or incentive in Leigner, alone or in combination with Krishnakumar et al. or any of the other references cited, to arrive at Applicants' disclosure as claimed.

Accordingly, for the sake of brevity, it is respectfully submitted that in view of Applicants' arguments stated above, Leigner and Krishnakumar et al. are improper primary and/or secondary references, and Applicants' claims are patentably distinct with respect thereto, as well as no teaching in existence to suggest the combination of the references. Applicants respectfully submit that the Examiner has failed to identify any motivation by one of ordinary skill in the art to combine or modify the art to arrive at the claimed disclosure other than the impermissible use of hindsight. Obviousness is not established by combining the teachings of the prior art absent some teaching, suggestion or incentive supporting such combination.

While it is Applicants' view that the claims as written are not obvious in light of the cited art and fully comply with Section 103, in the interest of expediting prosecution and without prejudice to pursuing this and related subject matter in future applications, Applicants have amended independent Claims 1, 10 and 17. Therefore, independent Claims 1, 10 and 17 should be in condition for allowance. Further, because Claims 2-9, 11-16 and 19-25 depend from independent Claims 1, 10 and 17, respectfully, they are at least as limited, are similarly not taught by Leigner, alone or in combination with Krishnakumar et al. or any of the other references cited, and should also be in condition for allowance. In view of the above amendments and these remarks, Applicants

respectfully request the Examiner to reconsider and withdraw the Section 103 rejections to Claims 1-25.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the Examiner believes that personal communication will expedite prosecution of this application, she is invited to contact the undersigned at her earliest convenience.

Respectfully submitted,
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Dated: November 30, 2005

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